

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

PEDRO ROSSELLÓ, et al.,

Plaintiffs,

v.

BROWN & WILLIAMSON TOBACCO
COMPANY, et al.,

Defendants.

Civil No. 97-1910 (JAF)

O R D E R

Movant, Bekenton USA ("Bekenton"), moves for declaratory relief and other forms of redress for the alleged breach of a settlement agreement (the "Master Settlement Agreement" or "MSA") reached between the parties to this dispute on November 23, 1998. Docket Document Nos. 236, 252. Bekenton identifies the intended respondents to its motion as the National Association of Attorney Generals "NAAG" and the Hon. Steve Carter ("Carter"), in his alleged capacity as President and class representative for the party composed of all members of the settling states, which includes Puerto Rico. Docket Document No. 252. Carter and NAAG move to strike Bekenton's motion, arguing that: (1) Bekenton's motion is in contravention of our August 4, 2005 order directing Bekenton to file a new case, and (2) neither Carter nor NAAG are parties to the present dispute, and

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1 so there is no jurisdictional basis for the appearance as respondents
2 to Bekenton's motion. Docket Document No. 254.

3 Upon careful review of the relevant filings, we now recognize
4 that because the MSA stipulated that this court retains jurisdiction
5 over "disputes, alleged violations, or alleged breaches within such
6 Settling State," Docket Document No. 252, Exh. A, p. 48, Bekenton
7 need not initiate an entirely new action, but may instead proceed
8 within the confines of the present action to seek redress for any
9 MSA-related violations occurring within Puerto Rico.

10 Nonetheless, we find that Bekenton's motion succumbs to Carter
11 and NAAG's objection that they may not be called as respondents
12 because they are not parties to this dispute or even to the MSA.
13 Docket Document Nos. 249, 256. As Carter and NAAG have noted, the
14 MSA explicitly limits enforcement power and responsibility to the
15 Settling States, which do not include Carter or NAAG. MSA
16 § VII(c);(p). Furthermore, this court lacks personal jurisdiction
17 over Carter and NAAG under Federal Rule of Civil Procedure 12(b)(2).

18 Finally, we note that Bekenton's future ability to seek
19 enforcement of the MSA is limited by MSA's stipulation that this
20 court "shall retain exclusive jurisdiction for the purpose of
21 implementing and enforcing this Agreement and the Consent Decree as
22 to" Puerto Rico only. MSA § VII(a). To the extent that Bekenton
23 seeks declaratory relief regarding MSA violations in Puerto Rico, it

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1 may proceed against the Puerto Rico Attorney General before this
2 court; however, it may not call NAAG or Carter as respondents here so
3 as to obtain relief for injuries that occurred elsewhere.

4 Bekenton's motion to enforce judgment is denied. Docket Document
5 No. 252.

6 **IT IS SO ORDERED.**

7 San Juan, Puerto Rico, this 23rd day of January, 2006.

8 S/José Antonio Fusté
9 JOSE ANTONIO FUSTE
10 Chief U. S. District Judge